



United States Senate
WASHINGTON, DC 20510-0905

BILL NELSON
FLORIDA

1146

October 28, 2014

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

I am writing in reference to the Commission's action last Friday against two companies, TerraCom, Inc. and YourTel America, Inc., for allegedly posting the sensitive personal information of over 300,000 Americans on a public website.

I strongly support Commission efforts to take action against telecommunications carriers who fail to reasonably protect the personally identifiable information (PII) that they collect from consumers, or timely notify consumers in the event of a breach involving that information. Furthermore, notwithstanding the dissents of two of your fellow Republican Commissioners, I believe the Commission has clear authority to act under sections 201 and 222 of the Communications Act of 1934, as amended, against those carriers who fail to protect PII or other sensitive consumer information.

I am very concerned, however, that the proposed fine of \$10 million does not provide an appropriate deterrent effect – and may be seen merely as a cost of business to these carriers. Accordingly, I would urge the Commission to use all available authorities and penalties – up to and including a revocation of the right to participate in the Lifeline program or provide other telecommunications services – for companies that willfully fail to protect the PII or other sensitive information of consumers.

Thank you in advance for your attention to this issue, and continued efforts to protect telecommunications consumers from fraudulent and deceptive practices.

Sincerely,

Bill Nelson



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 10, 2014

The Honorable Bill Nelson
United States Senate
716 Senate Hart Office Building
Washington, D.C. 20510

Dear Senator Nelson:

Thank you for your letter regarding our recent action proposing a \$10 million fine against TerraCom and YourTel for failing to protect adequately the confidentiality of their customers' proprietary information. Your views on this issue are very important, and I appreciate your support and recognition of our continued efforts to protect the personal information of American consumers.

The companies in question collected sensitive information from low-income consumers to establish their eligibility for the Lifeline program. This collection is consistent with our rules. Rather than safeguarding this information as promised in their privacy policies, however, the companies outsourced this responsibility to a vendor that collected and stored the information on unprotected Internet servers. In other words, the most sensitive, personal information of up to 305,000 Americans was available to anyone with a search engine. This is simply unacceptable.

Your letter urges that the Commission should use all available authority against companies that willfully fail to protect sensitive and personal information of consumers. I wholeheartedly agree. As this episode demonstrates, consumers entrust their most personal, confidential, and sensitive information to our communications networks and service providers every day. The Commission has a responsibility to ensure that those service providers and network operators take reasonable steps to honor that public trust, and to protect consumers from harm caused by violations of the Communications Act. Section 222 of the Communications Act imposes a duty on carriers to protect the confidentiality of proprietary information. Moreover, failure to take reasonable steps to secure consumer information is a clear breach of a carrier's duty to protect the confidentiality of the proprietary information they collect and constitutes an "unjust and unreasonable practice" in violation of Section 201(b) of the Act.

You also expressed concern that the proposed fine does not provide an appropriate deterrent effect. We take this concern very seriously. The protection of consumers' personal information is a fundamental obligation of all telecommunications carriers, and, in this case, the evidence shows that TerraCom and YourTel have not taken these obligations seriously.

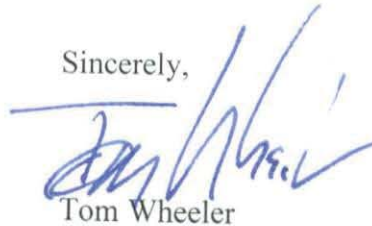
In accordance with the guidance of Section 1.80 of the FCC's rules, we look to a number of factors when we calculate a forfeiture, including the nature, circumstances, extent and gravity

of the violation, as well as the violator's degree of culpability, history of prior offenses, and the ability to pay. Weighing the facts before us and taking into account the extent and gravity of the circumstances, we proposed a forfeiture of \$10 million, though we could propose even higher forfeitures in the future if we determine that doing so is appropriate and would better protect the interests of consumers and deter future violations of the Act. We will continue to analyze and implement the most efficient and effective ways to ensure compliance with our rules and regulations regarding the protection of American consumers' personally identifiable information.

As the nation's expert agency on communications networks, the Commission cannot – and will not – stand idly by when a service provider's lax data security practices expose the personal information of hundreds of thousands of the most vulnerable Americans to identity theft and fraud. I assure you that the Commission will exercise its full authority against companies that fail to meet their statutory requirements of safeguarding the personal information of consumers.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending from the end.

Tom Wheeler